

REMARKS

At the outset, Applicants acknowledge with appreciation the Examiner's vacating of the finality of the last office action in response to the Applicants' submission on 2 February 2010.

Following entry of the above amendments, claims 1-3, 7-33, 35-41, 47, 49, 52-54, 56, 58, and 59 remain in the application for consideration. Claims 1, 7, 28, and 29 are herein amended. Claims 5 and 6 are herein cancelled, and claims 4, 34, 42-46, 48, 50, 51, 55, and 57 were previously cancelled.

In the present response, claim 1 is amended to incorporate the subject matter of claims 5 and 6, and claims 5 and 6 are herein cancelled. By adding the subject matter of claims 5 and 6, claim 1 is now limited to a polypeptide having from 4 to about 20 substitution mutations at specific positions. Claims 28 and 29 are herein amended to reflect the amendments to claim 1. No new matter is added by these amendments.

Rejections Moot or Withdrawn

Applicants note with appreciation the indication of mootness or withdrawal of previous rejections outlined in paragraphs 4-8 of the present office action.

Rejections Under 35 USC §§102 and 112(2)

Claims 1-3 and 25 were rejected as being anticipated Uhlen et al. (J. Biol. Chem. 259:1695-1704 (1984)). Applicants respectfully traverse the rejection.

Uhlen et al. discloses the complete amino acid sequence of staphylococcal Protein A (SPA), including the amino acid sequence of domain B. Uhlen et al moreover discloses that the B domain has binding affinity for IgG. HER2 is not mentioned.

In contrast, the polypeptide recited in amended claim 1 comprises the amino acid sequence of Protein Z, having from 4 to 20 substitution mutations thereon at specific positions. The claimed polypeptide is thus different from the protein domains disclosed by Uhlen et al at least in that it comprises from 4 substitution mutations at specific locations, and that it has binding affinity for HER2. Domain B of staphylococcal Protein A has only two substitution mutations compared to the sequence of Protein Z. No further substitution mutations are suggested by Uhlen et al. Moreover, domain B clearly has binding affinity for another protein, namely IgG.

Accordingly, Applicants submit that amended claim 1 is not anticipated by Uhlen et al., and that this rejection is overcome. Moreover, Applicants submit that in light of the above amendments, the rejections of claims 5-24, 26-33, 35-41,

47, 49, 52-54, 56, 58, and 59 under 35 USC §112, Second Paragraph, as being indefinite by depending from rejected claims, is now moot.

Applicants now submit that the claims are in condition for allowance, and respectfully request that a Notice of Allowance be issued.

If the Examiner has any questions concerning this application, he is encouraged to contact the undersigned attorney.

**Please charge any fees due with this response to Deposit Account 23-1665 under Customer Number 27267.**

Respectfully submitted,

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